

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
100.37.163.86,

Defendant.
-----X

15 CV 1855

Civil Action No. _____

**COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT**

JUDGE McMahon

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 100.37.163.86, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).
2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.
3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

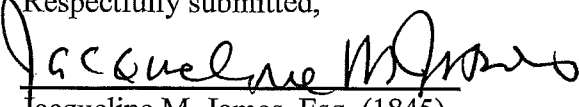
(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,
By: 
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Attorneys for Plaintiff

File Hashes for IP Address 100.37.163.86

ISP: Verizon Internet Services

Physical Location: New York, NY

Hit Date UTC	File Hash	Title
01/16/2015 16:06:54	4367C8C13869B63FEAB49B757190B448D83678BE	Yours Forever
01/06/2015 15:15:06	3D990A8BAC8FB5B10FCC9CDA739DC9FDB486876C	Too Hot To Handle
12/15/2014 00:26:01	EB06CEC9FE3929712B647BA17F7E7301F9DAC094	First Time
12/15/2014 00:18:13	6441A805D07567E8208AB18F2A8467FACE02C507	I Want You To Want Me
12/15/2014 00:11:59	777247FB71CD95A57ACF1909D6ED8D2AE7CE76A9	Blonde Perfection
12/05/2014 20:15:56	6650C8A190BA04EBC731EDF5125A75D9F97DE63D	Fuck Me More
12/05/2014 20:14:53	D5ABE1D926E20F257D3ECF003F28A733C2801684	Forever You Part #2
12/05/2014 20:13:02	E831A89E2D4F31484BA5A262CF963D9A7F414765	Light My Fire
12/05/2014 19:56:44	D2CD93D4D495BC086BCE93073D261E956A2434AB	Tight and Wet
11/21/2014 20:34:57	FB19F226C1720F9C293C5E9CB07021829E151D92	One Show For Each
11/21/2014 20:32:25	2F4771020A9701851F7D58DDEC8A77D916B55650	Exposed And Aroused
11/21/2014 20:24:03	9A0A8372FBD147A14730101BA262D73C67C407B8	Do Me Darling
11/21/2014 20:21:59	2B0320C0760F5355C7EC573AC73899C362209D0E	Deep Down In Me
11/21/2014 20:20:33	D33DDC5AFF9C4FC2242A5F677EB34C5023B1B1BE	Spellbound
10/24/2014 22:33:38	15A157B489E6762547FBEF9A280676E78B53146A	Deep Blue Passion
10/24/2014 22:10:06	BAD37FDC1315C4C34191F49257A01CCC9E181691	Grow Up With Me
10/24/2014 21:46:31	BE8C24E5306BD4C706C60ADD1130FD78B9970E83	Tantric Massage
10/24/2014 21:33:17	DDFA609D8C015E81C098CC6EE83BE696E0145B58	Love at First Sight
10/24/2014 21:30:13	212EBDF3BF5AF9847AE0C5CBDB76C24C46FF6DCE	They Meet Again
10/24/2014 21:28:53	4F8309110D236F5A477F4FD603D4628D8F7E97D2	Zeppelin on Fire
10/24/2014 21:28:42	4CF61D7682E7B02478E2EF563AEE264F43C7A415	Putting On A Show For You
10/24/2014 21:28:31	8D2C71BBCC526E214853EB335EDBBDE2AF85FCDF	In for the Night

EXHIBIT A

SNY95

Hit Date UTC	File Hash	Title
10/24/2014 21:10:42	B389BE2507C73F191DB21437BD433ED59BF7D11A	Double Tease
10/24/2014 21:09:40	12B4D4A91B4FB4AB443E01738825100BA3371C04	Season of Love
10/24/2014 21:08:35	53E8068629FC21F23779B78A42D8C8AA03DE63AB	Newlyweds
10/24/2014 21:07:59	7E6C5589AAF22C9F0C2FBFFFB177D1ACC6EBF2FF	Arrest Me
10/24/2014 20:53:41	8480FD8FB3B1B1C3A10796AB71C2A574F9C46722	Give Me More Part 2
10/24/2014 20:46:24	655B828DE4F2721CB8A092CE8CE184D2307E5A88	Epic Love
10/24/2014 20:39:48	EC4156F34DE33A96DE08FDD1288BF48643A72366	Sexy En Noir
10/24/2014 20:38:47	1F3E41E60D2617B25A613E12D173A860F98B68AA	Rendezvous
10/24/2014 20:33:59	4DAE1F79BDC6E97CA750ECCAB188554D9F397709	Sparks
10/24/2014 20:33:36	0A23490A4EAB86108F82B874642118AAB248FA8C	Shes A Spinner
10/24/2014 00:31:36	712877CDC7DE31728585AC27F8FFE09E435FEBA5	Carry Me Home
10/24/2014 00:31:36	742320B263F71DF6392F26BE6F75CBFC82688AD8	Sexy In The City
10/24/2014 00:28:32	2692CD67B992F7E6A200FAF4DBDCEAC1130D397A	Breakfast At Eves
10/24/2014 00:22:54	6BC83D1D6ED16DCEA087C5CD8057502A2991D1E1	Apertif Our Style
10/24/2014 00:22:20	EF2CE7C64AD0B9CCEFE52D9728E1D82D0349C4D	Spanish Heat
10/24/2014 00:17:20	FF7C7866F11E1C9D0F203241D206995C8D87569A	Dripping Desires
10/24/2014 00:09:36	C0B193093F20C427BC9A3FDE6136381BE1A87B9E	Rock Me Baby
10/23/2014 23:53:18	8F2061BEBF834A487931F97D268EB5C5FFD3D0EA	Naughty and Nice
10/23/2014 23:24:39	7E8071EBECF0F0FE50AE2EAD0E1CE24E29E865C1	Getting Down
10/23/2014 23:17:36	647C36CAC525B56AA5E0A765A2452D82DE691777	Almost Famous
10/23/2014 23:14:03	91AF7A51D429BF0E21F54434ED94EEAB5826238A	Spilled Milk
10/23/2014 23:13:43	043B516539A611AB2CF408DFBA75AC1CE858DF48	A Little Rain Must Fall
10/23/2014 23:08:34	5538A2A914BC9D66143B223339228954C908BF71	Just the Three of Us
10/23/2014 23:07:28	E8A5556F67F6D5DE7ABB6A96C51D212FB86DDE31	Sneaking In
10/23/2014 23:04:12	957170E4DA93002449D455E16CD72C0C76414A24	Fucking Goddesses

EXHIBIT A

Hit Date UTC	File Hash	Title
10/23/2014 23:00:02	AC3ECC9526224D88CAD9FED10EC5581B42677C22	Fun For Three
10/23/2014 22:58:37	986DB330591A1F1C046077846A2F79E3A091214E	Good Night Kiss
10/23/2014 22:57:49	5D0515A4F6E95F68AD70CDE7072A9E225D32AB04	Russian Connection
10/23/2014 22:56:02	80C66DB825A68AD3167A601E27FF3B1FA308970F	Group Sex
10/20/2014 19:26:46	7BAA7A9FAFC637FD0EA6F41BC89C57290827D70E	In the Blind
10/20/2014 19:22:31	6E0BEC2D5843622B516F57F61E5BE08EEE0FEB2F	Taste Me
10/20/2014 19:20:23	62A046C5CD15D4800877BB24409DE3131A68A6A6	Hot Bath For Two
10/20/2014 19:17:40	8B4960BEF62639C6513A1EAE1FB0E706AE78B00B	Awe Inspiring Orgy

Total Statutory Claims Against Defendant: 55

Copyrights-In-Suit for IP Address 100.37.163.86

ISP: Verizon Internet Services

Location: New York, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Yours Forever	PA0001907573	07/15/2014	07/25/2014	01/16/2015
Too Hot To Handle	PA0001925345	12/02/2014	12/10/2014	01/06/2015
First Time	PA0001926092	12/13/2014	12/29/2014	12/15/2014
I Want You To Want Me	PA0001925335	12/06/2014	12/10/2014	12/15/2014
Blonde Perfection	PA0001926061	12/10/2014	12/29/2014	12/15/2014
Fuck Me More	PA0001923957	11/22/2014	12/08/2014	12/05/2014
Forever You Part #2	PA0001923966	11/30/2014	12/08/2014	12/05/2014
Light My Fire	PA0001923961	11/28/2014	12/08/2014	12/05/2014
Tight and Wet	PA0001923176	11/19/2014	11/23/2014	12/05/2014
One Show For Each	PA0001921295	10/26/2014	11/06/2014	11/21/2014
Exposed And Aroused	PA0001921293	11/01/2014	11/06/2014	11/21/2014
Do Me Darling	PA0001921297	10/24/2014	11/06/2014	11/21/2014
Deep Down In Me	PA0001922955	11/13/2014	11/18/2014	11/21/2014
Spellbound	PA0001922954	11/15/2014	11/18/2014	11/21/2014
Deep Blue Passion	PA0001885168	03/21/2014	03/24/2014	10/24/2014
Grow Up With Me	PA0001866185	10/17/2013	10/19/2013	10/24/2014
Tantric Massage	PA0001892180	04/25/2014	04/29/2014	10/24/2014
Love at First Sight	PA0001872756	12/14/2013	12/15/2013	10/24/2014
They Meet Again	PA0001866049	10/11/2013	10/16/2013	10/24/2014
Zeppelin on Fire	PA0001874614	01/04/2014	01/05/2014	10/24/2014
Putting On A Show For You	PA0001892889	04/29/2014	05/04/2014	10/24/2014

EXHIBIT B

SNY95

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
In for the Night	PA0001874670	01/06/2014	01/06/2014	10/24/2014
Double Tease	PA0001892183	04/17/2014	04/29/2014	10/24/2014
Season of Love	PA0001877252	01/18/2014	01/26/2014	10/24/2014
Newlyweds	PA0001859662	07/04/2013	07/26/2013	10/24/2014
Arrest Me	PA0001871941	11/25/2013	11/29/2013	10/24/2014
Give Me More Part 2	PA0001905479	06/29/2014	07/02/2014	10/24/2014
Epic Love	PA0001898091	05/25/2014	06/06/2014	10/24/2014
Sexy En Noir	PA0001909783	08/22/2014	08/26/2014	10/24/2014
Rendezvous	PA0001889397	04/12/2014	04/15/2014	10/24/2014
Sparks	PA0001916039	09/24/2014	10/06/2014	10/24/2014
Shes A Spinner	PA0001914521	09/03/2014	09/17/2014	10/24/2014
Carry Me Home	PA0001908452	07/29/2014	08/04/2014	10/24/2014
Sexy In The City	PA0001905511	06/27/2014	07/02/2014	10/24/2014
Breakfast At Eves	PA0001909480	08/06/2014	08/26/2014	10/24/2014
Apertif Our Style	PA0001874522	12/23/2013	12/30/2013	10/24/2014
Spanish Heat	PA0001917709	10/13/2014	10/19/2014	10/24/2014
Dripping Desires	PA0001918737	10/17/2014	10/22/2014	10/24/2014
Rock Me Baby	PA0001907592	07/19/2014	07/25/2014	10/24/2014
Naughty and Nice	PA0001819290	12/25/2012	12/31/2012	10/23/2014
Getting Down	PA0001838601	04/25/2013	05/14/2013	10/23/2014
Almost Famous	PA0001864687	09/27/2013	09/30/2013	10/23/2014
Spilled Milk	PA0001833299	03/08/2013	04/01/2013	10/23/2014
A Little Rain Must Fall	PA0001822653	01/23/2013	01/27/2013	10/23/2014
Just the Three of Us	PA0001880670	02/21/2014	02/27/2014	10/23/2014
Sneaking In	PA0001860962	08/17/2013	09/08/2013	10/23/2014

EXHIBIT B

SNY95

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Fucking Goddesses	PA0001916051	09/30/2014	10/06/2014	10/23/2014
Fun For Three	PA0001914731	09/19/2014	09/22/2014	10/23/2014
Good Night Kiss	PA0001872970	12/08/2013	12/11/2013	10/23/2014
Russian Connection	PA0001886189	03/30/2014	04/02/2014	10/23/2014
Group Sex	PA0001892182	04/19/2014	04/29/2014	10/23/2014
In the Blind	PA0001909487	08/08/2014	08/20/2014	10/20/2014
Taste Me	PA0001912773	08/27/2014	09/17/2014	10/20/2014
Hot Bath For Two	PA0001914734	09/20/2014	09/22/2014	10/20/2014
Awe Inspiring Orgy	PA0001917712	10/11/2014	10/19/2014	10/20/2014

Total Malibu Media, LLC Copyrights Infringed: 55